HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8921 OF 2005.

Pancham Shivkumar Singh. ..Petitioner.

Versus.

Rajju Sitaram yadav & Gavali. ..Respondents.

Ms. Geeta Shastri i/b M/s. Khilnani & Co., for the petitioner.

CORAM: S.B.MHASE,J.

DATE: October 5, 2007.

P.C.

1. Heard. The order dated 12th September 2005 passed in Interim Notice No.3779 of 2004 in R.A.E. Suit No. 625 of 2003 is challenged in this petition. By the said order the application made by the present petitioner for taking the written statement on record is rejected. Admittedly, the defendant - petitioner had not filed the written statement within 30 days and thereafter within 90 days. Under these circumstances as per the Apex Court judgment the petitioner was under obligation to show that there were extra-ordinary or exceptional circumstances. However, the petitioner has miserably failed to bring on record the extra-ordinary and/or exceptional circumstances as discussed in the order. The first reason assigned by the petitioner is that he was not aware of the legal procedure and that the advocate was engaged by him, and he is a layman.

That cannot be an exceptional circumstance. The second reason is that the talk of settlement was going on, however, after the failure of the talks the matter was kept for filing of the written statement. Third ground was that the summons was defective and is not in accordance with the provisions of law. However, the trial Court has perused the summons and dates given on the summons and found that the summons is proper. Learned counsel for the petitioner has not pointed out before me how the summons is improper. Thus, this Court finds that the reasoning adopted by the Small Causes Court is justifiable and requires no interference. Petition is rejected summarily. Interim order stands vacated.

(S.B.MHASE, J.)